

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Virgil Moeller,

Case No. 03-33611-GFK
Chapter 11

Debtor.

**NOTICE OF HEARING AND MOTION FOR FINAL ALLOWANCE OF
COMPENSATION BY ATTORNEY FOR CHAPTER 11 TRUSTEE**

1. Rider Bennett, LLP, ("Applicant"), by and through the undersigned hereby moves the Court for entry of an Order approving its Application for Final Allowance of Compensation ("Application"). This application only provides for a request for compensation of the Applicant.¹

2. The Court will hold a hearing on this motion on **September 27, 2004 at 2:00 p.m.**, before The Honorable Gregory F. Kishel, Chief Judge of the U.S. Bankruptcy Court, in Courtroom Number 228B, U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota.

3. Any objection to the relief requested herein must be filed and delivered not later than September 20, 2004, which is seven (7) days (including Saturdays, Sundays, and legal holidays) before the time set for the hearing, or filed and served by mail not later than September 17, 2004, which is ten (10) days (including Saturdays, Sundays and legal holidays) before the time set for the hearing. **UNLESS A WRITTEN RESPONSE IS TIMELY SERVED AND FILED, THE COURT MAY ENTER AN ORDER GRANTING THE REQUESTED RELIEF WITHOUT A HEARING**

¹ It does not include the allowable Trustee compensation pursuant to 11 U.S.C. § 326. Those fees will be requested in the Trustee's Final Report that will be filed with the Court at the conclusion of the Trustee's administration.

JURISDICTION

4. The above captioned case was commenced by the filing of a petition for relief under Chapter 11 on May 19, 2003. This Court has jurisdiction over this Application under 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This Application arises under 11 U.S.C. §§ 327 and 330. This proceeding is a core proceeding and is filed pursuant to Local Rules 2016-1 and 9013-4.

APPLICANT'S APPOINTMENT AS COUNSEL FOR THE DEBTOR

5. On April 16, 2004, the Court approved Applicant's employment as Attorney for the Chapter 11 Trustee (the "Trustee"). A copy of the Order approving the Trustee's retention of Applicant is attached as Exhibit A.

6. In connection with its appointment as Attorney for Trustee, Applicant did not receive a retainer.

PRIOR ALLOWANCE OF FEES AND EXPENSES

7. Applicant has not filed any prior applications for fees and expenses in this case.

UNPAID ADMINISTRATIVE EXPENSES

8. To the best of Applicant's belief, there are no other unpaid administrative expenses other than that of the Trustee's Accountant in the amount of \$14,328.00..

DESCRIPTION OF SERVICES AS COUNSEL FOR THE TRUSTEE

9. In connection with the bankruptcy case, Applicant has performed actual and necessary services for the Trustee in the exercise and furtherance of the Trustee's duties under the Bankruptcy Code. Attached as Exhibit B are statements of fees incurred on behalf of the Trustee from April 12, 2004 through August 31, 2004. As required by Local Rule 2016-1, those statements contain an itemization of time separated by task or proceeding, (i) a description of the

task or proceeding, (ii) a detailed list and description of each increment of time expended on the task or proceeding, and (iii) the name and capacity of the person who expended the time.

Applicant expended a total of 96.10 hours of combined attorney and paralegal time for services rendered on behalf of the Trustee between April 12, 2004 and August 31, 2004, and requests allowance of compensation in the amount of \$29,984.00.

10. The following sets forth in narrative form the services Applicant performed in its capacity as attorney for the Trustee, the amount of time and results achieved.

LEASE OF FARMLAND AND SALE OF PROPERTY

Applicant prepared motions for authorization to enter into farm contracts and for sale free and clear of liens. Applicant also prepared Stipulations in connection with the sale of personal property. In connection with the sale of personal property and the lease of Debtor's farmland, the Applicant attended hearings; negotiated with the various parties and negotiated with the lien claimants in connection with the various properties. The Applicant also prepared various legal documents in connection with sales; negotiated various settlements and negotiated various proposed orders in connection with the sales. Through the efforts of the Applicant, the estate and creditors realized a value of approximately \$151,458.00.

| <u>Attorney/Paralegal</u> | <u>Billing Rate</u> | <u>Hours Billed</u> | <u>Billed Value</u> |
|----------------------------------|----------------------------|----------------------------|----------------------------|
| William P. Wassweiler | \$320.00 | 5.00 | \$1,600.00 |
| Nauni Jo Manty | \$320.00 | 25.7 | \$8,224.00 |
| Daniel J. McGarry | \$190.00 | 1.6 | \$304.00 |

DISCLOSURE STATEMENT, PLAN AND CONFIRMATION ISSUES

In connection with this case, the Applicant reviewed and analyzed the disclosure statements and plans submitted by the Debtor. The Applicant drafted, on behalf of the Trustee, a

disclosure statement, plan and ballot reports. The Debtor objected to the Trustee's disclosure statement and plan. In connection with the objections, the Applicant analyzed and responded to the objections and attended the various meetings and hearings. The Applicant also negotiated a resolution of the Debtor's objection to the Trustee's plan before the contested confirmation hearing with the various constituencies. The estate will benefit from the Applicant's efforts as the Trustee is hopeful that all creditors will be paid in full.

| <u>Attorney/Paralegal</u> | <u>Billing Rate</u> | <u>Hours Billed</u> | <u>Billed Value</u> |
|----------------------------------|----------------------------|----------------------------|----------------------------|
| William P. Wassweiler | \$320.00 | 21.8 | \$6,976.00 |
| Nauni Jo Manty | \$320.00 | 37.9 | \$12,128.00 |
| Daniel J. McGarry | \$190.00 | 3.8 | \$722.00 |
| Carol Saunders | \$120.00 | .3 | \$30.00 |

11. Exhibit B also reflects a statement of actual costs and expenses incurred on behalf of the Applicant from April 12, 2004 through August 31, 2004. Actual costs and expenses incurred on behalf of the Trustee during that time totaled \$2,729.87. Outside charges were billed at actual costs. Internally Applicant charges 17 cents per page for copies, \$1.00 per page for faxes and \$0.375 per mile for mileage.

WHEREFORE, Applicant requests the Court enter an Order:

1. Allowing Applicant final compensation in the amount of \$29,984.00 for fees and reimbursement of expenses in the amount of \$2,729.87.
2. Directing the Trustee to pay forthwith to Applicant the sum of \$32,713.87, which represent a final award of fees and expenses.

RIDER BENNETT, LLP

By /e/Nauni Jo Manty

Nauni Jo Manty (230352)

Attorneys for Trustee
333 South Seventh Street
Suite 2000
Minneapolis, MN 55402
(612) 340-7900

Dated: September 1, 2004



UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: In Chapter 11 Proceedings
Virgil Moeller, Case No. 03-33611-GFK
Debtor.

ORDER

On April 16, 2004, the Application to Employ Rider Bennett, LLP as counsel of the estate came before the undersigned. Based on the Application, the Recommendation of the United States Trustee, and pursuant to the provisions of Title 11 United States Code, §327,

IT IS HEREBY ORDERED the professional employment applied for is hereby approved, subject to the limitations on compensation provided by Title 11, United States Code, §328.

Dated : April 16, 2004.

A handwritten signature in cursive script, reading "Gregory F. Kishel".

The Honorable Gregory F. Kishel
United States Bankruptcy Court Judge

NOTICE OF ELECTRONIC ENTRY AND
FILING ORDER OR JUDGMENT
Filed and Docket Entry made on 04/16/04
Lori Vosselpka, Acting Clerk, By lje



**Attorneys at Law
A Limited Liability Partnership**

**333 South Seventh Street
Suite 2000
Minneapolis MN 55402**

**Telephone 612 · 340 · 8900
Web site: www.riderlaw.com
Fed I.D. #41-0838582**

Nauni Jo Manty, Attorney for Trustee
333 South 7th St.
Minneapolis, MN 55402

Invoice Number
Invoice Date
Billing Attorney

September 2, 2004
0567

Re: **18979.000114** Moeller, Virgil a/s/f Vamco Trucking, Inc. d/b/a Moeller Farms

For Professional Services Rendered through August 31, 2004

| <u>Date</u> | <u>Initials</u> | <u>Description</u> | <u>Hours</u> | <u>Amount</u> |
|-------------|-----------------|---|--------------|---------------|
| 04/12/04 | NJM | Prepare motion for authorization to enter into farm contracts (1.5); research and prepare memorandum (1.4); proposed order in support of same (.5) | 3.90 | 1248.00 |
| 04/13/04 | NJM | Prepare motion; memorandum; proposed order for motion for sale and clear of liens; serve and file same | 4.00 | 1280.00 |
| 04/16/04 | NJM | Receive and review contracts and auction report (.2); prepare auction report and new proposed order (1.9); prepare report and recommendation to convert case from Chapter 11 to Chapter 7 (1.5) | 3.60 | 1152.00 |
| 04/18/04 | NJM | Review plan and disclosure statement and review response of Debtor to motion to lease land; begin outlining reply | 2.50 | 800.00 |
| 04/19/04 | DJM | Legal research regarding trustee's right to retain rents; conference with Trustee and auctioneer | 1.60 | 304.00 |
| 04/19/04 | NJM | Prepare for hearing on lease of Cropland (2.5); telephone call with Ron Gehling regarding environmental issues with parcel 1; attend hearing (.5); meet with creditors after hearing (.7) | 3.70 | 1184.00 |
| 05/10/04 | NJM | Begin drafting disclosure statement and plan; telephone call from and to C. Ries | 2.00 | 640.00 |
| 05/11/04 | NJM | Continue drafting disclosure statement (4.0); review CPA's analysis on gain (.9) | 4.90 | 1568.00 |
| 05/21/04 | NJM | Review letter from Ron Gehling (.5); review letter from Chuck Ries and objection of Kurt Anderson to sale motion (1.0) | 1.50 | 480.00 |
| 05/24/04 | NJM | Review objection by Agstar; telephone calls from and to Al Reiland; respond to e-mails by B. Boysen regarding sale of machinery | 1.90 | 608.00 |
| 05/25/04 | NJM | Various e-mails to B. Boysen regarding sale of farm machinery and to Chuck Ries regarding same (.8); telephone call from and to Al Reiland regarding same (.4); and prepare stipulation for Sale of Personal Property (1.3) | 2.50 | 800.00 |



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000114

Manty, Nauni Jo, Attorney for Trustee
Moeller, Virgil a/s/f Vamco Trucking, Inc. d/b/a
Moeller Farms

Invoice Number *****

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September 2, 2004

| <u>Date</u> | <u>Initials</u> | <u>Description</u> | <u>Hours</u> | <u>Amount</u> |
|-------------|-----------------|--|--------------|---------------|
| 05/26/04 | WPW | Legal analysis of revenues earned on exempt property (1); review and analyze debtor's plan and disclosure statement (1.5); outline objections to disclosure statement (.5) | 2.50 | 800.00 |
| 05/26/04 | NJM | Review various documents in preparation of exhibits to disclosure statement. | 5.30 | 1696.00 |
| 05/26/04 | NJM | Reccive titles; revise stipulation and prepare proposed order. | .60 | 192.00 |
| 05/27/04 | NJM | Draft Exhibit A Net Proceeds and Exhibit B Liquidation Analysis; draft Chapter 11 Plan. | 6.10 | 1952.00 |
| 06/01/04 | WPW | Review objections to Debtor's Plan and Disclosure Statement (.5); review and analyze debtor's plan of reorganization and disclosure statement (1); review and analyze debtor's objection to lease of exempt property (.5); legal analysis of debtor's right to exempt rent from exempt land (.8); review and analyze debtor's reply in support of disclosure statement (1) | 3.80 | 1216.00 |
| 06/01/04 | DJM | Legal research regarding ability of Trustee to recover proceeds from rental of exempt farm land | 1.20 | 228.00 |
| 06/02/04 | WPW | Conferences with the Trustee and prepare for hearing (1); review and analyze trustee's receipts and disbursements in preparation for hearing (.5); travel to and attend hearing (2); conferences with opposing counsel regarding sale free and clear and lease of exempt property (.5); conferecnce with debtor's counsel regarding amendment to debtor's disclosure statement (1) | 5.00 | 1600.00 |
| 06/08/04 | WPW | Review and analyze debtor's proposed revisions to disclosure statement (.5) | .50 | 160.00 |
| 06/14/04 | NJM | Telephone call with Dick Noll of Security State Bank with issues with Disclosure Statement | .30 | 96.00 |
| 06/17/04 | NJM | Receive and review e-mails from Brian Boysen; Henry Wang and Chuck Ries re-sale of Class Baler (.5); prepare Stipulation and Order regarding same (1.0) | 1.50 | 480.00 |
| 06/18/04 | WPW | Review and analyze debtor's objections to trustee's disclosure statement | .80 | 256.00 |
| 06/21/04 | NJM | Review objection by Ag Star (.8); telephone call to P. Bucher regarding same (.2); review Debtor's Objection to Disclosure Statement (.6) | 1.60 | 512.00 |
| 06/22/04 | WPW | Conference with Judge's calendar clerk regarding confirmation hearing (.3); review and analyze changes to debtor's disclosure statement (1); review and analyze revised tax analysis prepared by accountant for the trustee (.5); review and analyze revised disclosure statement prepared by the trustee (1); begin preparation for disclosure statement hearing | 2.80 | 896.00 |
| 06/22/04 | NJM | Research regarding Trustee's ability to sell exempt property in the Eighth Circuit | 2.00 | 640.00 |

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Manty, Nauni Jo, Attorney for Trustee
Moeller, Virgil a/s/f Vamco Trucking, Inc. d/b/a
Moeller Farms

Invoice Number *****

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September 2, 2004

| <u>Date</u> | <u>Initials</u> | <u>Description</u> | <u>Hours</u> | <u>Amount</u> |
|-------------|-----------------|---|--------------|---------------|
| 06/24/04 | WPW | Conference with debtor's counsel regarding resolution of objections to trustee's disclosure statement (.4); travel to and attend disclosure statement hearing (2); conference with debtor's counsel regarding objections to trustee's disclosure statement (1) | 4.40 | 1408.00 |
| 06/28/04 | WPW | Review and revise proposed ballot (1.5) | 1.50 | 480.00 |
| 06/30/04 | WPW | Correspondence to debtor's counsel regarding proposed ballot and transmittal letter | .30 | 96.00 |
| 07/01/04 | WPW | Review and analyze correspondence from debtor's counsel regarding transmittal letter and ballot | .50 | 160.00 |
| 07/26/04 | WPW | Review correspondence regarding debtor's intent to solicit creditors' votes by making false representations regarding the Trustee's tax projections (.3); correspondence to debtor's counsel regarding possible motion to disqualify votes in favor of debtor's plan pursuant to 11 U.S.C. 1126(e) (.4) | .70 | 224.00 |
| 08/09/04 | NJM | Begin drafting Ballot Report of Trustee; review ballots cast (.9); e-mail to C. Abel regarding 2003 income tax returns and issues with confirmation (.2) | 1.10 | 352.00 |
| 08/11/04 | WPW | Conference with expert accountant regarding confirmation hearing and related tax issues (1); review and analyze Agstar objection to debtor's plan (.5) | 1.50 | 480.00 |
| 08/12/04 | WPW | Review and analyze debtor's objection to the trustee's plan (2); review reply in support of trustee's plan (.5); | 2.50 | 800.00 |
| 08/12/04 | DJM | Conference with Trustee regarding response to objection by Debtor to Trustee's plan (.4); review objection and begin drafting response (1.8) | 2.20 | 418.00 |
| 08/12/04 | NJM | Review ballots and prepare ballot report (2.3); discussion with scheduling clerk regarding testimony (.2); confirming e-mail (.3); telephone call with A & K regarding statement (.2); review materials (.3); inquire of the debtor concerning corn issues (.2) | 3.50 | 1120.00 |
| 08/13/04 | CJS | Library research regarding cite check and keycite of Trustee's Response to Objection of Virgill Moeller to Confirmation of Trustee's Chapter 11 Plan for D. McGarry. | .30 | 30.00 |
| 08/13/04 | DJM | Conference with Trustee Manty and Attorney Wassweiler regarding objection by Debtor to Trustee's proposed plan (.4) | .40 | 76.00 |
| 08/13/04 | NJM | Research regarding impairment, feasibility; exemptions; etc. (4.); revise reply (1.0) | 5.00 | 1600.00 |
| 08/15/04 | NJM | Prepare modification of plan to deal with 1123 (c) issues | 1.40 | 448.00 |
| 08/17/04 | NJM | Prepare modification to Trustee's plan and e-mail proposal to interested parties | 2.90 | 928.00 |
| 08/18/04 | NJM | E-mail correspondence from and to Katherine Moeller regarding appraisal; e-mails to court regarding status of modification | .20 | 64.00 |

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000114

Manty, Nauni Jo, Attorney for Trustee
Moeller, Virgil a/s/f Vamco Trucking, Inc. d/b/a
Moeller Farms

Invoice Number *****
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September 2, 2004

| <u>Date</u> | <u>Initials</u> | <u>Description</u> | <u>Hours</u> | <u>Amount</u> |
|-------------|-----------------|---|--------------|---------------|
| 08/18/04 | NJM | Finalize modification to Trustee's Plan; forward to all parties and file with Court | 1.60 | 512.00 |
| | | Total Hours | 96.10 | |

Current Fees

\$29,984.00

Timekeeper Summary:

| Initials | Timekeeper Name | Title | Hours | Rate | Value |
|----------|-----------------------|-----------------|-------|--------|-----------|
| WPW | William P. Wassweiler | PARTNER | 26.80 | 320.00 | 8,576.00 |
| NJM | Nauni Jo Manty | PARTNER | 63.60 | 320.00 | 20,352.00 |
| DJM | Daniel J. McGarry | ASSOCIATE | 5.40 | 190.00 | 1,026.00 |
| CJS | Carol J. Saunders | LEGAL ASSISTANT | .30 | 100.00 | 30.00 |

For Costs Advanced and Expenses Incurred:

| <u>Date</u> | <u>Description</u> | <u>Amount</u> |
|-------------|-------------------------|---------------|
| 08/31/04 | Photocopies | 1,367.31 |
| 08/31/04 | Long Distance Telephone | 15.33 |
| 08/31/04 | Facsimile | 64.50 |
| 08/31/04 | Westlaw | 1,282.73 |

Current Expenses

\$2,729.87

Total Amount of this Invoice

\$32,713.87

Total Balance Due Upon Receipt

\$32,713.87

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Virgil Moeller, asf Vamco Trucking, Inc.
and Moeller Farms

Court File No. BKY 03-33611

Chapter 11 Case

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I, Donna M. Voth declare under penalty of perjury that on September 3, 2004, I mailed copies of the Notice of Hearing and Motion for Final Allowance of Compensation by Attorney for Chapter 11 Trustee and Proposed Order to each entity below at the address stated below for each entity:

| |
|--|
| VIRGIL MOELLER PO BOX 109 SPRING VALLEY MN 55975 |
| KURT M ANDERSON PO BOX 2434 MINNEAPOLIS MN 55402-0434 |
| US TRUSTEE 1015 US COURTHOUSE 300 SOUTH FOURTH STREET MINNEAPOLIS MN 55415 |
| US ATTORNEY 600 US COURTHOUSE 300 SOUTH FOURTH STREET MINNEAPOLIS MN 55415 |
| MN DEPT OF REVENUE COLLECTION ENFORCEMENT 551 BANKRUPTCY SECTION PO BOX 64447 ST PAUL MN 55164 |
| INTERNAL REVENUE SERVICE SPECIAL PROCEDURES BRANCH 316 N ROBERT ST STOP 5700 ST PAUL MN 55101 |
| IRS DISTRICT COUNSEL 650 GALTIER PLAZA 175 E 5TH ST ST PAUL MN 55101 |
| SECURITIES & EXCHANGE COMM BANKRUPTCY SECTION 500 W MADISON #1400 CHICAGO IL 60661-2511 |

| |
|--|
| AGCO FINANCE LLC PO BOX 3794 URBANDALE IA 50322-9714 |
| AGSTAR FINANCIAL SERVICES 1921 PREMIER DR PO BOX 4249 MANKATO MN 56002-4249 |
| CATERPILLAR FINANCIAL SERVICES PO BOX 340001 2120 WEST END AVE NASHVILLE TN 37203 |
| PACCAR PO BOX 642945 PITTSBURGH PA 15264 |
| AGSTAR FINANCIAL SERVICES C/O DUNLAP AND SEEGER -- ATTN: PAUL BUCHER PO BOX 549 ROCHESTER MN 55903-0549 |
| MR. DENNIS RUTGERS EVAVOLD & RUTGERS LAW OFFICE, LLC PO BOX 39 RUSHFORD, MN 55971 ATTORNEY FOR KATHERINE MARIE MOELLER |
| U S DEPT OF AGRICULTURE - FARM SERVICE AGENCY C/O ROYLENE A CHAMPEAUX 600 U S COURTHOUSE 300 S 4TH ST MINNEAPOLIS MN 55415 |
| COMMODITY CREDIT CORP USDA-FSA 413 FARMERS STREET NW PRESTON, MN 55965 |
| FIRST NATIONAL EQUIPMENT FINANCING PO BOX 2137 OMAHA NE 68103-2137 |
| SECURITY STATE BANK 310 MAIN ST OSTRANDER MN 55961-0037 |
| WELLS FARGO ATTN: DANNY STROH 21 FIRST ST SW ROCHESTER MN 55902 |
| CITI CAPITAL PO BOX 672032 DALLAS TX 75267-2032 |
| CATERPILLAR FINANCIAL SERVICES CORP. C/O ALPHA KHALDI DORSEY & WHITNEY 50 S. 6 TH STREET STE 1500 MINNEAPOLIS MN 55402-1498 |

| |
|--|
| HOME FEDERAL 715 N. BROADWAY SPRING VALLEY, MN 55975 |
| HAMMELL EQUIPMENT INC. BOX 448 CHATFIELD MN 55923 |
| DIVINE SCHERZER & BRODY LTD ATTN: CHRIS ABEL 22 S 9 TH STREET STE 3000 MINNEAPOLIS, MN 55402-3340 |
| CHARLES W. RIES 200 UNION SQUARE BUSINESS CENTER 201 NORTH BROAD STREET P.O. BOX 7 MANKATO, MN 56002-0007 |
| HENRY WANG GRAY PLANT MOOTY 500 IDS CENTER 80 SOUTH EIGHTH STREET MINNEAPOLIS, MN 55402-3796 ATTORNEYS FOR FIRST NATIONAL EQUIPMENT FINANCIAL CORPORATION |
| PRINS TRUCKING INC. 414 OXFORD STREET WORTHINGTON MN 56187 |
| SUNDRUP TRANSFER, INC. PO BOX 105 ARCADIA IA 51435 |
| MIDWEST LABS 13611 "B" STREET OMAHA NE 68144 |
| KWIK TRIP PO BOX 1597 LACROSSE WI 54601 |

Dated: September 3, 2004

/e/ Donne M. Voth
Donna M. Voth

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:
Virgil Moeller,

Case No. 03-33611-GFK
Chapter 11

Debtor.

ORDER ALLOWING FINAL ALLOWANCE OF COMPENSATION
BY ATTORNEY FOR CHAPTER 11 TRUSTEE

This matter came before the Court on the Application of Rider Bennett, LLP, for Final Allowance of Compensation (the "Application"). Appearances were as noted in the record. Based upon the Application,

IT IS HEREBY ORDERED:

1. The Application is approved in the amount of \$29,984.00 for fees and reimbursement of expenses in the amount of \$2,729.87.
2. The Trustee shall forthwith to Rider Bennett, LLP, the sum of \$32,713.87 which represents an award of fees.

Dated this ____ day of September, 2004.

BY THE COURT:

The Honorable Gregory F. Kishel
Chief, United States Bankruptcy Court Judge